

One Subject Person
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C.R. O'H Byp

28 September 1955

MEMORANDUM FOR: Mr. Houston

SUBJECT : Gifts

1. The Acting Director has requested new regulations pertaining to the receipt of gifts by Agency officials. The most frequent problem is that of Agency officials being presented gifts by officials of foreign governments with whom they have official contracts. [REDACTED] set forth the laws and regulations pertaining to the acceptance of awards, decorations and gifts by employees, but the frequent requests by Agency officials for advice as to the disposition of gifts indicates a need for clarification of these regulations. 25X1A

2. The controlling laws are as follows:

(a) The United States Constitution, Article 1, section 9, clause 8:

"No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State."

(b) 5 U.S.C., § 113 - Prohibition of contributions or presents to superiors. It is not directly pertinent to the problem at hand but probably could be included as a part of the regulations.

(c) 5 U.S.C., § 115 - Foreign decorations; delivery through State Department.

"Any present, decoration, or other thing, which shall be conferred or presented by any foreign government to any officer of the United States, civil, naval, or military, shall be tendered through the Department of State, and not to the individual in person, but such present, decoration, or other thing shall not be delivered by the Department of State unless so authorized by act of Congress."

(d) 18 U.S.C., §§ 202, 216. These are the criminal provisions pertaining to the acceptance of gifts by officers or employees of the Government from persons dealing with the United States.

25X1A 3. [REDACTED] together cover awards and gifts of any kind presented to officers and employees of the United States by persons or governments. Appropriate revisions of these regulations should serve to clarify the law and set up easily followed rules for employees who are offered or receive gifts. Because the laws of the United States, including the

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Constitution, do not distinguish between "decorations and awards" and other gifts of foreign governments, it does not seem appropriate to so distinguish in Agency regulations as has been suggested by the Acting Director.

4. In his memorandum of 14 December 1954 for the Acting Director, the DD/P has made several suggestions as to the disposition of gifts from foreign government officials or private citizens when it has been impractical to refuse or return the gifts. The Acting Director has added some comments and suggestions of his own. These suggestions and my comments on them are as follows:

(a) The suggestion that the recipient make a report of the gift to appropriate Agency officials is already covered in Agency regulations

(b) The DD/P recommends that gifts of substantial intrinsic value be turned over to the Agency. A value of more than \$10.00 has been suggested as indicating substantial intrinsic value. Presumably employees would be allowed to retain gifts of lesser value. Unfortunately this runs counter to existing laws and to the United States Constitution (see paragraph 2 above).

(c) The recommendation that the donee be allowed to hold the gift in trust for the Agency seems feasible although the logic behind the recommendation is not exactly flawless. It is argued that in many cases it could prove embarrassing if the donee were not able to display the gift. If, for instance, the donor were to visit Washington and call at the donee's office or home it would be almost a diplomatic necessity to have in a place of honor the sterling silver tea service, teakwood bar or black silk cloak and sapphire studded dagger which the foreign official had presented. However, the very fact of displaying such gifts, particularly since some will bear inscriptions testifying to the fact that they were presents of governments or officials, would seem to negate the argument that security considerations prevented a report of the presentation through the Secretary of State to the Congress. Aside from this problem of rationalization there would seem to be no legal objection to the donee turning the gift over to the Agency and then taking it back on loan, provided that it is clearly understood that the gift remains Agency property and that the employee has no right or title to it.

(d) The DD/P has suggested that the donee might be afforded the opportunity to purchase the gift from the Agency at a price to be determined by an independent appraiser. I believe that the Acting Director's comments that customs problems complicate this possibility and that it might be misinterpreted are valid criticisms.

(e) The Acting Director has suggested that we establish a storeroom or museum for preservation and display of such gifts. I believe that any display of such gifts even though it be on a classified basis would be unwise and might subject the Agency to adverse criticism and publicity. The laws of the United States require that gifts received from foreign

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governments be tendered through the Department of State and that every executive department and establishment report annually to the Secretary of State the names of personnel on whom such awards and decorations have been conferred. In cases where employees of this Agency have received awards and decorations from foreign governments, it is the policy of this Agency to exercise the discretion granted in section 7, P.L. 110 - 81st Congress, exempting it from the provisions of any law requiring disclosure of the names of employees. However, if we were to make a display even though it be a private one, of awards or decorations so received, some question might arise as to our policy in not following the law requiring reports to the Secretary of State. It is recognized that, in a technical sense, most of these gifts are not those of a foreign government. They are usually presented as a personal gift from the foreign official with whom the recipient has dealt on official business. However, in the great majority of cases there is no doubt that the gift has actually been paid for by official funds of the foreign government and is not truly a gift of the official presenting it.

25X1A 5. In light of the above, it appears more practical to revise Agency [REDACTED] in such a way as to make it clear to all employees of the Agency that they cannot be allowed to retain gifts presented to them solely because of their official position. Together, the regulations can include presents, awards, decorations and other things received from foreign governments, officials of foreign governments or private individuals having business of some sort with the United States Government as represented by the employee receiving the gift. It would appear feasible in those cases where it has been impractical to refuse or return the gifts and where security considerations prevent a report to the Secretary of State, to have the employee turn the gift over to the Agency for disposition in such manner as security considerations and pertinent laws may allow and in those cases where it could prove embarrassing for the employee not to have possession of the gift to allow him to hold it on a loan basis for such time as may be necessary. 25X1A

25X1A 6. Attached are drafts of proposed revisions of [REDACTED]
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